



02 OCT 2006

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In re Application of	:	
BLACHER, Guillaume	:	
Application No.: 10/537,650	:	DECISION ON
PCT No.: PCT/IB03/05680	:	
Int. Filing Date: 05 December 2003	:	PETITION UNDER
Priority Date: 06 December 2002	:	
Attorney Docket No.: SDS-0119	:	37 CFR 1.47(b)
For: FINANCIAL PRODUCT PRICING	:	
SYSTEM	:	

This is a decision on applicant's "Petition In Support of Filing On Behalf of Non-Signing Inventors (37 CFR §1.47(b))," filed in the United States Patent and Trademark Office (USPTO) on 18 April 2006.

BACKGROUND

On 05 December 2003, applicant filed international application PCT/IB03/05680, claiming a priority date of 06 December 2002. A copy of the international application was transmitted to the Office on 24 June 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 06 June 2005.

On 06 June 2005, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 19 September 2005, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an English translation, an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late submission of the search fee, examination fee or oath or declaration were required.

On 18 April 2006, applicant submitted a petition under 37 CFR 1.47(b) accompanied by the fee for a five month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(g), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1), (3), (4) and (6) have been met. (1) The balance of the \$200 petition fee will be charged to the deposit account no. 23-3050, as authorized. (3) Applicant states the last known mailing address of Guillaume Blacher as 28 Gaskarth Road; Londres SW12 9NL; United Kingdom. (4) The declaration complies with 37 CFR 1.47(b). (6) Applicant has demonstrated that irreparable harm will result if the application is not permitted to proceed.

Item (2) has not been satisfied. Applicant claims that Mr. Blacher has refused to execute the declaration, but have not provided proof that Mr. Blacher was presented with a complete copy of the application papers and has refused to sign. While the letter from Valerie A. Chicchi indicates that it included a copy of the application with the declaration, the petition is not accompanied by a firsthand statement of the facts indicating that this was the letter mailed with the enclosures. Additionally, if the 22 November 2005 email is acknowledging receipt of the October papers, it would be helpful to note it in a statement of facts. If the 22 November 2005 email is not acknowledging receipt then other documentary evidence of receipt should be provided, such as tracking information for the package.

Item (5) has not been met. Applicant has not provided sufficient evidence of proprietary interest in the application. Applicant has provided an employment agreement, but has not provided a statement of facts by a person having firsthand knowledge that the invention was made during the employment and within the scope of the employment agreement. MPEP409.03(f).

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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10/04/2006 SBASHEIR 00000005 233050 10537650
Sale Ref: 00000005 DAH: 233050 10537650
01 FC:1463 70.00 DA 130.00 OP

Adjustment date: 10/04/2006 SBASHEIR
04/24/2006 LLANDGRA 00000030 10537650
04 FC:1464 -130.00 OP